

DOCKET NO.: 220709US6PCT/khi

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF:

GROUP: 2421

Keigo IHARA, et al.

SERIAL NO: 10/089,085

EXAMINER: MONTOKA, O.

FILED: April 10, 2002

FOR: CONTENT DISTRIBUTION METHOD, RESERVATION CONTROL  
APPARATUS AND PROGRAM STORAGE MEDIUM

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

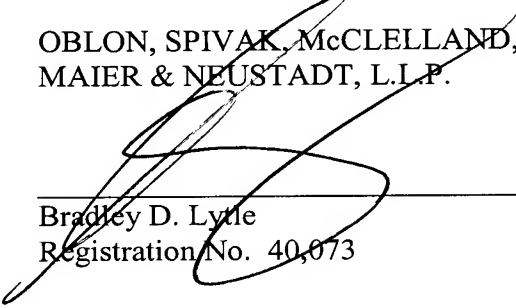
This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s). No more than five (5) pages are provided.

I am the attorney or agent of record.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, L.L.P.



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REMARKS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In the Final Office Action of May 28, 2009 (herein, the FA), pending Claims 1-6 and 9-13 are rejected under 35 U.S.C. § 103(a) as unpatentable over Garrity et al. (U.S. Pat. 6,230,205, Garrity) in view of Rodriguez (U.S. Pat. 7,340,759) and Thomas et al. (U.S. Pat. 7,305,696, herein Thomas).

Applicants respectfully traverse the above noted rejection under 35 U.S.C. § 103, as independent Claims 1, 5-6 and 9 recite novel features clearly not taught or rendered obvious by the applied references. Independent Claim 1, for example, recites, in part, a content distribution method, comprising:

transmitting a menu from the reservation control apparatus *to the distributor terminal apparatus* ... the menu configured to display available service times to *upload content from the distributor terminal apparatus to the distribution server* ... and *a service fee, availability, bandwidth and cost corresponding to each of the available service times* ...

As disclosed in an exemplary embodiment at Fig. 22, the reservation control apparatus (e.g. server reservation control center 101 in Fig. 12) is configured to transmit a menu to a distributor terminal apparatus (e.g. user PC 106, the terminal that uploads the content for distribution), which displays available service times during which content may be uploaded from the distributor terminal apparatus to the distribution server, and a service fee, availability, bandwidth and cost corresponding to each of the available service times. Once the content is uploaded by the distributor terminal apparatus (user PC 106) to the distribution server (e.g. streaming server 102), the content is distributed to the client terminal apparatuses (e.g. client PC 107) from the distribution server. Thus, the menu information regarding the service times correspond to the service times during which the distributor terminal apparatus (user PC 106) *uploads the content* to the distribution server (e.g. streaming server 102), and not when a client terminal apparatus (e.g. client PC 107) requests to receive the content from the distribution server.

In rebutting the previously presented arguments directed to the above emphasized claimed features, p. 2 of the FA asserts that Garrity “discloses transmitting a menu from the reservation control apparatus to the distributor terminal apparatus ... to upload content from the distributor terminal apparatus to the distribution server ...” and Rodriguez “discloses a menu configured to display available service times to distribute content using a distribution server and a distribution fee ...”

As an initial matter, Applicants note that Claim 1 does not recite that the menu displays “available service times to distribute content”, as characterized in the FA with respect to Rodriguez. Instead, Claim 1 requires that the menu displays “available service times to *upload content from the distributor terminal apparatus to the distribution server*”. Thus, the FA improperly characterizes the claimed features in relation to Rodriguez.

Nonetheless, in rejecting the claimed features directed to the information displayed by the menu, p. 5 of the FA relies on col. 18, ll. 23-55 of Rodriguez. This cited portion of Rodriguez describes a video-on-demand (VOD) system in which a bandwidth allocation manager 125 determines a bandwidth allocation schedule based on allocation criteria comprising a subscriber reservation request. The subscriber reservation request is a request initiated by the subscriber to view a particular service at a particular time in the future. A digital home communication terminal (DHCT) 14 includes a VOD reservation application that allows a user to select video content from a catalog of available services and to select the date and time that they wish to view the video. In addition, the reservation application may display the fees and/or price criteria associated with the reservation viewing options. Rodriguez, therefore, describes a display at a DHCT (e.g. home set-top box) that allows a subscriber to see costs associated with receiving specific content from the VOD system.

Such a configuration is in contrast to the clear language of Claim 1, which recites that menu displays “available service times to ***upload content from the distributor terminal apparatus to the distribution server*** ... and a service fee, availability, bandwidth and cost corresponding ***to each of the available service times*** [to upload the content].” As discussed above, the menu in Rodriguez allows a subscriber to see costs associated with receiving specific content from the VOD system, not uploading the content to a distribution server for subsequent distribution to other terminals.

Moreover, p. 2 of the FA notes that “one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.” In this case however, Rodriguez clearly fails to teach or suggest the claimed feature for which it is asserted as a secondary reference under 35 U.S.C. § 103, and therefore Garritty, Rodriguez and Thomas, even if combined, also fail to teach or suggest this claimed feature.

Additionally, arguments were previously presented as to how the specific combination of

references fail to teach or suggest the above noted claimed features, thus the previous arguments did not merely “attack the references individually” as asserted in the FA.

For example, if Rodriguez were combined with Garrity, the resultant system would include the interface of Garrity used to transmit content from a content provider (CP) 102-106 to an operations center (BOC) 136, which, as conceded in the FA, does not “display available service times and a service fee, availability, bandwidth and a cost corresponding to each of the available service times.” The system would also include a display at a DHCT (e.g. home set-top box), as described in Rodriguez, that allows a subscriber to see costs associated with receiving specific content from the VOD system. Therefore, the addition of Rodriguez merely provides Garrity with an interface by which the content is retrieved by subscribers, and is in no way related to displaying parameters related to available service times to upload content from the distributor terminal apparatus to the distribution server, as claimed.

Therefore, the combination of Garrity and Rodriguez clearly fails to teach or suggest “transmitting a menu from the reservation control apparatus *to the distributor terminal apparatus* ... the menu configured to display available service times to *upload content from the distributor terminal apparatus to the distribution server* ... and *a service fee, availability, bandwidth and cost corresponding to each of the available service times.*”

Moreover, the FA relies on Thomas merely for the concept of “displaying available bandwidth”. Thomas, however, fails to remedy the above noted deficiencies of Garrity and Rodriguez.

Application No. 10/089,085  
Reply to Office Action of

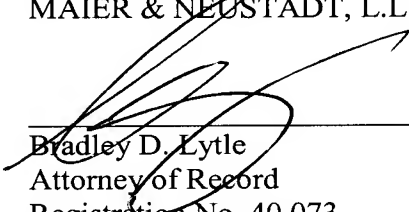
Based on this clear legal deficiency in the above-noted rejection, Applicants respectfully request that the rejection of Claims 1-6 and 9-13 under 35 U.S.C. § 102 be withdrawn and prosecution be re-opened as the current grounds of rejection are very clearly deficient.

Respectfully submitted,

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